Lembaga Minyak Sawit Malaysia v KYROX Sdn Bhd & Anor

COURT OF APPEAL (PUTRAJAYA) — CIVIL APPEAL NO P-01(IM)-363–07 OF 2023
RAVINTHRAN, MOHAMED ZAINI MAZLAN AND AHMAD KAMAL JJCA
28 MARCH 2025

Civil Procedure — Judicial review ('JR') — Whether decision was amenable to JR — Whether appellant's decision as public body performing public functions under statute was illegal, irrational, unreasonable, against natural justice and an abuse of process — Whether impugned decision also violated respondents' legitimate expectation that subject-matter of its dispute with appellant would be preserved until court proceedings between the parties were completed

The second respondent ('Kazhou') had bought about 15,000 metric tonnes of used cooking oil ('UCO') from three suppliers for the purpose of exporting the same to a buyer in Europe through its agent, the first respondent ('Kyrox'). Whilst the UCO was stored in tanks awaiting shipment, the appellant seized the same on the ground that Kazhou had no licence to export the UCO. During a meeting between the appellant and the respondents to resolve the matter amicably, it was agreed that the status quo of the seized UCO would be maintained for two weeks until the appellant made a decision on the respondents' settlement proposals including the return of the seized UCO to Kyrox if no prosecution was initiated. However, contrary to that representation, the appellant, on the same day of the meeting, sent out letters to four selected parties ('the four bidders') offering to sell the UCO to them at a reserve price that was grossly below market value and requiring them to make payment within seven days. The respondents immediately filed a judicial review ('JR') application in the High Court to quash the appellant's decision to sell the UCO ('the impugned decision'). Alternatively, the respondents sought a declaration that the impugned decision was invalid, null and void, illegal, irrational, unreasonable, arbitrary, against natural justice and in violation of the respondents' legitimate expectation that the status quo of the UCO would be maintained until further talks between the parties. In the instant appeal against the High Court's granting of the JR application, the appellant argued that its action to dispose of the UCO was not mala fide but in exercise of its right to do so under s 53 of the Malaysian Palm Oil Board Act 1998 ('the MPOB Act').

Held, unanimously dismissing the appeal and affirming the High Court's decision:

(1) The appellant relied on s 53(1)(a) and (b) of the MPOB Act to justify its attempt to dispose of the UCO. The evidence, however, showed that none of the conditions under that section had been satisfied to justify the appellant's action. No evidence was adduced to show that the UCO had deteriorated in quality. In fact, the evidence showed that the UCO was not perishable and there was no issue about its quality. Furthermore, the action to dispose of the UCO was taken 1 1/2 years after it was seized. There was no need for the appellant to have waited that long if the reason for the disposal was that the UCO was perishable. Throughout the seizure period, Kazhou had undertaken to pay for the storage costs of the UCO. In the circumstances, the impugned decision had no basis in law and fact (see paras 15–21).

(2) The appellant's attempt to dispose of the UCO was clearly an afterthought and went against the representation it had made to the respondents when it met them to resolve the matter amicably. The appellant deliberately did not inform the respondents about the disposal of the UCO to prevent them from taking any action to restrain the disposal (see para 22).

(3) The respondents had a legitimate expectation, in reliance on the appellant's promise made both at its meeting with the respondents as well as in its affidavit in the magistrate's court, that the UCO would not be disposed of until the prosecution against Kyrox was completed. The appellant could not thereafter take a different position with respect to the UCO. It could not approbate and reprobate. The appellant's impugned decision to sell the UCO without the respondents' knowledge, was contrary to the agreement it had reached with them (see paras 28, 33 & 35).

(4) The evidence as a whole showed various irregularities in the appellant's action to dispose of the seized UCO. Among other things, the offer was made by way of invitation selectively to the four bidders and not by way of open tender and that, too, at a reserve price that was about 80% lower than the then prevailing market price of the UCO (see para 36).

(5) The appellant was a public body performing public functions under statute and its impugned decision was amenable to judicial review. The court was duty-bound to quash the impugned decision as it was illegal, irrational, unreasonable, against natural justice and an abuse of process (see paras 37–44 & 46).

Cases referred to

Ahmad Jefri bin Mohd Jahri @ Md Johari v Pengarah Kebudayaan & Kesenian Johor & Ors [2010] 3 MLJ 145; [2010] 5 CLJ 865; [2010] 1 MLRA 524, FC (folld)

Ambiga a/p Sreenevasan v Director of Immigration, Sabah, Noor Alam Khan bin

A Wahid Khan & Ors [2018] 1 MLJ 633; [2017] 6 MLRA 33; [2017] 9 CLJ 205, CA (refd)
Boustead Trading (1985) Sdn Bhd v Arab-Malaysian Merchant Bank Bhd [1995] 3 MLJ 331; [1995] 1 MLRA 738; [1995] 4 CLJ 283; [1995] 3 AMR 2871, FC (refd)
YKK (M) Sdn Bhd v Pengarah Tanah dan Galian Johor [2021] 6 MLJ 496; [2021] 5 MLRA 476; [2021] 8 CLJ 179, FC (refd)
Zakiah bt Ishak v Majlis Daerah Hulu Selangor Darul Ehsan [2005] 6 MLJ 517; [2005] 2 MLRA 326; [2005] 4 CLJ 77, CA (refd)

Legislation referred to

Federal Constitution arts 8, 145
Malaysian Palm Oil Board Act 1998 ss 13, 14, 53, 53(1), (1)(a), (1)(b), 56
Penal Code
Public Authorities Protection Act 1948

Appeal from: *KYROX Sdn Bhd & Anor v Lembaga Minyak Sawit Malaysia* [2023] MLJU 2487 (High Court, Penang)

Najib bin Zakaria (with PG Cyril a/l PG Chandradasa and Syibratun @ Sarahnoor Ahmad) (Najib Hisham Isa) for the appellant.
Mohd Rizal Bahari bin Md Noor (with Mohd Amirfarid bin Mohd Nawawi) (Bahari & Bahari) for the respondent.
Lee Wei Ting (with Vernise Ng) (Loh Ivan & Lee Hui) watching brief for FIMA Bulking Services Bhd, FIMA Palmbulk Services Sdn Bhd and FIMA Butterworth Installation Sdn Bhd.

Ahmad Kamal JCA:

INTRODUCTION

[1] This is an appeal brought by Lembaga Minyak Sawit Malaysia, the respondent in the High Court ('appellant') against the decision of the High Court dated 16 June 2023 in allowing the application for judicial review ('JR') filed by Kyrox Sdn Bhd, the first applicant in the High Court ('first respondent') and Kazhou Pte Ltd, the second applicant in the High Court ('second respondent') to quash and/or remove the decision made by the appellant through their letters dated 23 December 2021 issued to four bidders, Trois Continental Sdn Bhd, Excel Criterion Sdn Bhd, KIS Resources Sdn Bhd and Nutra Lipids (M) Sdn Bhd ('four bidders'), offering the sale of the used cooking oil ('UCO') seized from the first respondent on 26 May 2020.

[2] We heard the appeal on 7 November 2024 and reserved the decision for deliberation. After carefully scrutinising the records of appeal and submissions

by both parties, we unanimously dismiss this appeal. This is now our grounds of judgment having so decided.

BACKGROUND FACTS

[3] Sometime in May 2020, the second respondent purchased approximately 15,000 metric tonnes UCO from three suppliers namely Innovans Palm Industries, Sepang Dynamics Sdn Bhd and Vandelay Ventures Sdn Bhd.

[4] The UCO was stored in the tanks of FIMA being FIMA Butterworth Installation Sdn Bhd (FBI) and/or FIMA Palmbulk Services Sdn Bhd (FBS) as early as 4 May 2020 to be exported to Europe by the first respondent as the agent, since the second respondent has secured a purchaser in the name of Oberosterreichische Biodiesel-Bulgaria Ltd ('the purchaser').

[5] On or about 25 May 2020 at 6am the purchaser's vessel arrived at Butterworth to load the UCO. At around 1am on 26 May 2020, the appellant seized 11 tanks containing the UCO on the ground that the second respondent has no license to export UCO. The need for a license was disputed by the second respondent as the second respondent had been exporting UCO and having received clearances from all relevant authorities especially from the Royal Malaysian Customs without any problem in the past.

[6] Following the incident, there were a series of court proceedings including civil and criminal actions relating to the seizure which later, parties came to a settlement except on a few issues including the deteriorating condition of the UCO.

[7] On 23 December 2021, there was a meeting between the appellant and respondents, in which the appellant cited that the Attorney General's Chambers ('AGC') wanted the matter resolved. What transpired during the meeting, among others, were:

(a) citing the deteriorating condition of the UCO, the appellant was of the mind to sell the UCO and keep the proceeds thereof. Should the first respondent be successful against the prosecution, the proceeds would be released to the first respondent. There would also be the payments to be determined on the differential between the current market price and the price at which the oil was to be sold;

(b) the first respondent's position was that once the charges are withdrawn, the UCO must be returned to the first respondent as the UCO was seized from the first respondent and not to anyone else. The first respondent wanted the UCO back and not the proceeds of the sale;

(c) the second respondent informed that they have been bearing all the storage charges and will continue to do so. No other party took any responsibility. The issue of deteriorating condition of the UCO did not arise as the first respondent would take the entire seized UCO 'as is'. Further, there could have been no marked changes in the past one month as opposed to the past one and a half years since the seizure when the Appellant did nothing to the UCO; and

(d) owing to the holiday season, the appellant requested a period of more than two weeks to respond. Parties agreed that the appellant would revert by 15 January 2022. At that time, no offer had been accepted and the process was kept on hold.

[8] Despite the above, the appellant through their letters dated the same date as the meeting, ie 23 December 2021 issued to the four bidders, offered to sell the UCO seized from the first respondent to them ('the offer'). Payments were to be made by the bidders within seven days thereafter. The offer by the appellant set the UCO's reserve price at RM3.088 per metric tonne.

IN THE HIGH COURT

[9] Aggrieved with the letters dated 23 December 2021 made by the appellant to the four bidders, the respondents filed the JR in the High Court against the appellant.

[10] The main point in the JR is for the High Court to review, quash and/or remove the decision that has been made by the appellant through their letters dated 23 December 2021 issued to the four bidders. In the alternative, the respondents sought a declaration that the appellant's above-mentioned decision is invalid, null and void and of no effect being illegal, irrational, unreasonable, arbitrarily undertaken, against natural justice and an abuse of process or against the law.

FINDINGS OF THE HIGH COURT

[11] The learned judicial commissioner ('JC') allowed the JR and found, in brief:

(a) the appellant has acted on an assumption that it has the authority to do so. It is not mala fide;

(b) there was a legitimate expectation on the part of the respondents which was violated by the appellant; and

(c) the appellant's actions are actions that are justiciable. The decision by the appellant offering the sale of UCO is illegal, irrational, unreasonable,

against natural justice and an abuse of process.

[12] Dissatisfied with the decision, the appellant now appeals to the Court of Appeal.

THE APPEAL

The appellant's submission

[13] Before us, the appellant submitted as follows:

(a) the act of disposing the UCO through an offer for sale was not made in bad faith (mala fide) and it is within the authority of the appellant as conferred by the law, specifically under s 53(1)(b) of the Malaysian Palm Oil Board Act 1998 ('the MPOB Act');

(b) there is a serious error of law and/or of facts in the High Court's ruling in allowing the respondents' application for JR mainly because the learned JC failed to consider all the relevant exhibits presented before him and failed to consider thoroughly the provision of law under s 53 and s 56 of the MPOB Act;

(c) the decision made by the appellant to sell the UCO and keep the proceeds was done within the authority and discretion given by the law to the appellant as an Executive body;

(d) the attempt by the respondents in seeking for a JR against the appellant's decision amounts to an abuse of the court's process as the appellant had clearly acted within the authority and discretion granted by the law; and

(e) the appellant is merely exercising the duty and responsibility place upon them as the Executive. Thus, there is no merit in the respondents' contention that the decision made by the appellant is invalid, null and void and of no effect being illegal, irrational, unreasonable, arbitrarily undertaken, against natural justice and an abuse of process or against the law.

The respondents' submission

[14] The respondents submitted that the High Court had correctly arrived at its decision in deciding that the appellant had acted beyond its authority primarily due to:

(a) the appellant had, in utter bad faith (mala fide) and against the agreement with the respondents, issued offers to sell the UCO to four bidders and payment were to be made by the bidders within seven days;

(b) the appellant, in issuing the offers to sell the UCO, was making it

selectively to several parties and not through an open tender invitation with a reserve price that was lower than the current UCO price. In other words, the appellant conducted the process of the disposal of the UCO irregularly, irrationally, and procedurally improper with mala fide; and

(c) the respondents have a legitimate expectation that the appellant would not dispose of the UCO, as the appellant had averred that the UCO shall be preserved as evidence for the prosecution.

OUR FINDINGS

Whether the appellant has acted in accordance with the law ie the WIPOB Act

[15] The appellant relied on s 53(1)(a) and (b) of the MPOB Act to justify their action of attempting to dispose the UCO.

[16] Section 53(1) of the MPOB Act states as follows:

> *53 Sale and disposal of seized oil palm product*
>
> (1) *The Director-General may at any time direct that any oil palm product seized under this Act be sold and the proceeds of the sale he held while waiting for the result of any prosecution under this Act where —*
>
> (a) *the oil palm product is of a perishable nature or easily deteriorates in quality;*
>
> (b) *the custody of the oil palm product involves unreasonable expense and inconvenience;*
>
> (c) there is a lack or absence of adequate or proper facilities for the storage of the oil palm product; or
>
> (d) the oil palm product is believed to cause an obstruction or to be hazard to the public. (Emphasis added.)

[17] Upon perusal of the evidence presented before this court, we find that none of the above conditions were evidenced to justify the appellant's action. No evidence was adduced that the UCO had deteriorated or that the respondents had paid the storage cost.

[18] In fact, the evidence shows, that the UCO being used in cooking oil is not perishable and there is no issue on quality.

[19] The second respondent has been invoiced with the storage costs and has repeatedly informed the appellant that the second respondent will bear the costs.

[20] Given the above, we are of the considered view that the appellant's impugned decision has no basis in law and fact.

[21] We also take note that the appellant only attempted to dispose of the UCO after a year and a half from the date of the seizure. The appellant does not need to wait that long if the reason for the disposal is that the UCO is perishable.

[22] The disposal was clearly an afterthought and against the appellant's representation when seeking a meeting for the matter to be resolved amicably. The appellant also did not notify any of the respondents of the disposal of the UCO deliberately to prevent the respondents from commencing any action to restrain the disposal.

Legitimate expectation

[23] This court finds that despite full knowledge of the claims and against the promise to revert by 15 January 2022, the appellant proceeded to dispose of the UCO.

[24] We noted that the appellant averred on affidavit in Suit BA-25–60–08 of 2020 that the UCO forms the evidence in the magistrate court where the return of it will be in contrary to the MPOB Act and the administration of court whilst a prosecution is still pending.

[25] The respondents thus, claimed to have legitimate expectation that the UCO would not be disposed of as averred by the appellant and that the UCO shall be preserved as evidence for the prosecution.

[26] The respondents also contended that the disposal of the UCO will also interfere the rights of the first respondent from having a fair trial to challenge the evidence and its chain of custody as protected under art 8 of the Federal Constitution ('the FC').

[27] The principle of legitimate expectation has been established in many cases, including the followings:

(a) in the case of *Zakiah bt Ishak v Majlis Daerah Hulu Selangor Darul Ehsan* [2005] 6 MLJ 517; [2005] 2 MLRA 326; [2005] 4 CLJ 77, the Court of Appeal held as follows:

> [16] Secondly it was contended on her behalf that the termination was in breach of her legitimate expectation that she could continue in her employment for the said period. *In law for legitimate expectation to arise there must be evidence of a promise or undertaking made by the respondent to that effect. We find no such evidence before the court*. On that premise we find that her claim for breach of legitimate expectation is wholly unsustainable. (Emphasis added.)

(b) in the case of *Ambiga a/p Sreenevasan v Director of Immigration, Sabah, Noor Alam Khan bin A Wahid Khan & Ors* [2018] 1 MLJ 633; [2017] 6 MLRA 33; [2017] 9 CLJ 205, the Court of Appeal held that:

> [52] The principle of legitimate expectation has been accepted by our law ... The doctrine of legitimate expectation protects both procedural and substantive rights.
>
> [53] The doctrine of legitimate expectation originates from common law principles of fairness. English courts developed this doctrine clearly to encourage good administration and prevent-abuses by decision-makers ... Generally, the courts will grant judicial review of an administrative decision based on individual's legitimate expectation if a public authority has made a representation to the individual within its powers. *The individual has to show that the representation was a clear and unambiguous promise, an established practice or a public announcement. This is largely factual inquiry ...* (Emphasis added.)

(c) in the case of *YKK (M) Sdn Bhd v Pengarah Tanah dan Galian Johor* [2021] 6 MLJ 496; [2021] 5 MLRA 476; [2021] 8 CLJ 179, the Federal Court held as follows:

> [95] *The courts will generally grant judicial review of an administrative decision premised on legitimate expectation where a public authority has made a representation or promise to the individual within its powers. In other words, the representation and promise must be within the law. in addition, the individual has to show that the representation was a clear and an unambiguous promise, an established practice or a public announcement.* (Emphasis added.)

[28] Based on the facts of the case, the appellant admitted that the UCO cannot be disposed of until the prosecution against the first respondent is completed. It is clear that the respondents have been given a guarantee that the UCO will not be disposed of until the case is completed in court. This shows that the respondents have a legitimate expectation to rely on this promise which was also agreed upon during the meeting between the two parties and also reinforced by the appellant's own affidavit in the magistrate's court.

Approbate and reprobate

[29] Based on the affidavits filed in this JR, this court finds that the appellant did not deny that an offer to sell the UCO has contradicted the earlier affidavit by the appellant itself, in the other proceeding, that it cannot be disposed of at that stage because it involves a criminal case that has not yet been resolved.

[30] The explanation given was that the power to prosecute is the Attorney General's prerogative under art 145 of the FC and that the power that is being exercised now is the appellant's power under s 56 of the MBPO Act. This power

is the power given and has been carried out bona fide, legal and in accordance with the law.

[31] Section 56 of the MBPO Act states as follows:

Forfeiture or release of seized oil palm product, etc.

(1) *If prosecution is instituted* with regard to any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act, *the court before which the prosecution with regard thereto has been held may order the forfeiture or release of the thing concerned.*

(2) ...

(3) ...

(4) ...

(5) ... (Emphasis added.)

[32] We find that the appellants' sworn affidavit stated that the UCOs are evidence to be used in the magistrate's criminal court summons. The relevant respondents' affidavits were unrebutted.

[33] It is trite that a litigant cannot be allowed to blow hot and cold. Taking one position in a proceeding and taking a diametrically opposed position in another.

[34] We are of the view that actions and promises that were later changed due to the existence of a criminal case clearly indicate that the appellant has changed his mind.

(See: *Boustead Trading (1985) Sdn Bhd v Arab-Malaysian Merchant Bank Bhd* [1995] 3 MLJ 331; [1995] 1 MLRA 738; [1995] 4 CLJ 283; [1995] 3 AMR 2871 (FC).)

[35] The appellant's action to proceed with the offer to sell on the same day of the meeting despite the request to revert by 15 January 2022, illustrates that the action is contrary to the agreement reached. The respondents were working out the settlement with the appellant when the appellant decided to issue the letters of offer without the knowledge of the respondents.

[36] Further, having perused the evidence produced before this court, we find the following facts have been established:

(a) on the offer of the bid issue, the offer was selectively made to the four bidders. The offer sets a low reserve price of RM3,088 per metric tonne which is far below from the current UCO price approximately RM5,579

per metric tonne — a difference of 80%;

(b) the appellant did not answer the issue saying the action of making an offer was limited to four bidders only. The offer was made through an invitation and not open tender contrary to the appellant's allegation. One of the successful bidders' information, KIS Resources Sdn Bhd could not be found through Suruhanjaya Syarikat Malaysia. This gives rise to procedural impropriety as the bidders did not meet the requirements to be registered with;

(c) the appellant did not show proof they had made offers to all 717 licenced companies as alleged by them. The letter of offer produced by the appellant is without address and the name of the company contrary to their averments. Proof of service of the letter of offer produced by the appellant, is an unexplained log book. The appellant failed to show that the letter of offer was actually sent to all 717 companies;

(d) all the nine forms from the unsuccessful bidders followed strictly the instructions by the appellant. However, it is otherwise for the successful bidders. The forms by the successful bidders are all undated. Most importantly, they failed to affirm *Surat Akuan Tidak Adanya Pakatan (Individu/Perkongsian).* This gives rise to suspicions and allegations against the appellant whereby the disposal process shows clear irregularities and suspicion for the appellant to accept the four bidders where the appellant accepted irregular applications and rejected all proper applications;

(e) there are facts that are not answered by the appellant as to why for an example Nutra Lipids as a successful bidder was offered a very low price of RM3,188 per metric tonne for seven tanks compared to the other four tanks of more than RM4,300 per metric tonne. No justification was offered by the Appellant as to why the minimum price was set at RM3,088 compared to the market price of material time RM5,579; and

(f) based on the facts of the case and also considering the appellant's failure to answer the questions and facts presented by the respondents convincingly in the appellant's own affidavit, this court concludes that there was a legitimate expectation that was violated by the appellant.

Whether the appellant's decision is amendable for JR

[37] The appellant is a government agency responsible for the promotion and development of the palm oil industry in Malaysia. It is one of the agencies under the Ministry of Plantation Industries and Commodities.

[38] The appellant was established in 1998 with the passing of the MPOB Act. By virtue of s 14 of the same Act, all members of the appellant or any

officer, servant or agent of the appellant while discharging his duties as such members shall be deemed to be a public servant within the meaning of the Penal Code.

[39] Section 13 of the same Act provides that the Public Authorities Protection Act 1948 ie an Act relating to the protection of a person acting in the execution of statutory and other public duties applies to the appellant.

[40] Hence, it was amply clear to us that the appellant is public bodies performing public functions under statute. As such, the question for our determination is whether the respondents are adversely affected by the 'decision, action or omission' in relation to the 'exercise of the public duty function'.

[41] The law only requires the 'decision, action or omission' of the body sought to be reviewed is in the exercise of a public function. If a decision is based on a statutory power, it must necessarily be amenable to JR. We are convinced that our view is consistent with the landmark Federal Court judgment of *Ahmad Jefri bin Mohd Jahri @ Md Johari v Pengarah Kebudayaan & Kesenian Johor & Ors* [2010] 3 MLJ 145; [2010] 5 CLJ 865; [2010] 1 MLRA 524 where it was remarked that:

> So first we have to determine the parameter of matters amenable for judicial review. It is widely accepted that not every decision made by an authoritative body is suitable for judicial review. To qualify there must be sufficient public law element in the decision made. For this, it is necessary to examine both the source of the power and the nature of the decision made; whether the decision was made under a statutory power (see para 61 *Halsbury's Laws of England* (4th Ed, 2001 Reissue) Vol 1(1).
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> (See also: *Dr Michael Jeyakumar Devaraj v Peguam Negara Malaysia* [2013] 2 MLJ 321; [2013] 2 CLJ 1009; [2013] 2 MLRA 179; [2013] 3 AMR 315 (FC), *Suruhanjaya Pencegahan Rasuah Malaysia & Ors v Latheefa Beebi Koya & Anor* [2017] 5 MLJ 349; [2017] 10 CLJ 1; [2017] 5 MLRA 89 (FC)).

[42] Coming back to the facts in the present case, it is undisputed that the decision and/or action of the appellant to proceed with the disposal of the UCO is an action taken by a public authority in the course of its administrative power.

[43] The court is duty bound to interfere with the decision, if it is against the FC, the law or in any manner arbitrary, irrational or if there are elements of mala fide or abuse of power.

[44] The appellant's action in issuing the offer letter for the UCO contractor was decided by him as a person who has the authority. That authority as a public authority in the course of its administrative powers has been challenged in this case.

[45] Having perused the evidence produced before the court and as has been discussed above, we are of the considered view that the learned JC was correct when he found that the appellant had acted against the FC and abuse of power when he held as follows:

(a) the appellant is estopped from disposing the UCO as the director has averred that the UCO is a form of evidence in the prosecution case and should not be returned to the suppliers;

(b) the first respondent would be deprived of its rights to property under art 8 of the FC and not be able to challenge the composition of the UCO during trial;

(c) the appellant gave false expectations during the meeting called by the appellant and disregarded the outcomes;

(d) the appellant has conducted the process of the disposal irregularly, irrationally and procedurally improper;

(e) the appellant has not justified the minimum price offered for the sale of UCO which is far below the market price;

(f) the appellant has abused its power in accepting irregular forms from the four bidders; and

(g) there is no compliance with s 53 of the MPOB Act for disposal.

[46] Given the above, we find that the appellant's actions are actions that are justiciable. The decision of the appellant offering the sale of UCO is illegal, irrational, unreasonable, against natural justice and an abuse of process.

CONCLUSION

[47] Based on the aforesaid reasons, we find no error or misdirection on the part of the learned JC in allowing the respondents' claim.

[48] In the result, we see no reason to interfere with the findings of the learned JC. As such, we find no merits in the appeal. We unanimously affirm the decision of the High Court and dismiss the appeal with costs of RM10,000 subject to allocator.

A *Appeal dismissed with costs of RM10,000 subject to allocator; High Court's decision affirmed.*

Reported by Ashok Kumar

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